

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
January 27, 2011

In the Matter of Z. I. MIMS, Minor.

No. 298013
Oakland Circuit Court
Family Division
LC No. 09-760769-NA

Before: JANSEN, P.J., and OWENS and SHAPIRO, JJ.

PER CURIAM.

Respondent A. Olverson appeals by right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(i) and (*l*). She argues that the trial court clearly erred by finding that termination of her parental rights was in the child's best interests. We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

Respondent has ten biological children. She voluntarily released her parental rights to the three oldest in 1993. Thereafter she bore six more children, and in 2005, the court took these children into temporary custody because respondent was unable to care for them. Respondent failed to substantially comply with the parent-agency agreement in that case, and the court terminated her parental rights to five of the six children. The sixth child continued to remain in the court's custody in Wayne County because the child, who was 12 years old at the time of the termination proceedings, requested that respondent's parental rights over her not be terminated. The plan for respondent and that child was reunification.

In 2009, respondent gave birth in Oakland County to the child at issue in the instant case. Petitioner filed a petition seeking to terminate respondent's parental rights to the child on the basis of respondent's prior terminations and her failure to comply with treatment plans in the 2005 case and the ongoing case in Wayne County.

The court agreed to bifurcate the proceedings, addressing jurisdiction and the statutory grounds for termination first, and then, if necessary, addressing the child's best interests in a separate hearing. The court found that the statutory grounds for termination set forth in §§ 19b(3)(i) and (*l*) had been established by clear and convincing evidence. The court then scheduled the best-interests hearing.

At the best-interests hearing, the caseworker in respondent's Wayne County case testified that respondent had failed to substantially comply with the parent-agency agreement, resulting in termination of her parental rights to five children in 2007. The testimony also established that

respondent had failed to comply with her plan pertaining to the other child remaining in the court's custody. The worker overseeing the instant case testified that respondent was appropriate in her visits with the child. However, the protective services worker who investigated the instant case testified that she believed termination was in the child's best interests because respondent lacked permanent housing and did not have any financial plan for caring for the child. The psychologist who evaluated respondent in connection with the best-interests hearing did not give an opinion regarding whether termination was in the child's best interests. However, he did not believe that respondent could care for the child without additional services and offered no opinions as to whether respondent would benefit from any services. The caseworker testified that petitioner did not have any additional services to offer respondent that it had not previously offered.

Respondent testified on her own behalf. She contended that her progress in the prior cases was impeded by her alcoholism and by domestic violence. However, she stated that she had addressed both issues in the years before the child's birth. She testified that she had established a support system and was receptive to services. She testified that she loved the child and wanted to plan for him. The caseworker testified that respondent's visits with the child were appropriate.

Respondent presented evidence that she had obtained suitable housing, a rental flat in Warren. She explained that she had obtained an \$8,000 settlement in connection with a worker's compensation claim that had arisen from an on-the-job injury she suffered in 2008. Within two weeks of receiving the settlement, she had spent a portion of the settlement on a security deposit, furnishings, and other supplies, leaving her with \$2,500. Respondent admitted that she was foreclosed by the terms of the settlement agreement from seeking disability benefits for three years. Respondent had not been employed since her 2008 injury.

The trial court determined that termination was in the child's best interests. The court concluded that respondent was sincere in her desire to care for the child, but expressed concerns regarding respondent's ability to care for the child given her past history and her ability to manage her finances and find employment.

We cannot say that the trial court clearly erred in its best-interests determination. MCR 3.977(K). Respondent's failure to comply with treatment plans in the past, coupled with testimony from the psychologist acknowledging that respondent's ability to benefit from additional services could not be confirmed, supported the court's finding. Moreover, the testimony revealed that respondent lacked a financial plan to maintain the housing she had acquired. The evidence adequately supported the court's finding that termination was in the child's best interests. MCL 712A.19b(5). The trial court did not clearly err by terminating respondent's parental rights to the child.

Affirmed.

/s/ Kathleen Jansen
/s/ Donald S. Owens
/s/ Douglas B. Shapiro